

TENNESSEE STATE BOARD OF EQUALIZATION

Appeal of:)	
)	
DISCOVERY PLACE, INC.)	Dickson
Map 131, Parcel 5.10, SI 000 & 001)	County
Claim of exemption)	

FINAL DECISION AND ORDER

Statement of the case

On the certification of the Assessment Appeals Commission the Board has consented to review a dispositive legal issue raised in the property owner's appeal from the initial decision and order of the administrative judge dated February 20, 2004. The issue is whether under the circumstances the property owner qualifies for a charitable use exemption or other exemption from property taxes under Tenn. Code Ann. §67-5-212. The Board considered this issue on oral arguments of counsel presented at a hearing before the Board in Nashville on June 27, 2005. Board members participating were Commissioner Chumley (presiding), Mr. Arp, Mr. Bailey, Mr. Morgan and Mr. Sims. The property owner, Discovery Place, Inc. ("Discovery"), was represented by its president, Mr. Joe Morgan, and a board member and CPA, Mr. Von Harshman. The assessor was represented by County Attorney Lawrence Ramsey.

Findings of fact and conclusions of law

The findings of fact of the Assessment Appeals Commission are not in dispute and are adopted as findings of the Board. Discovery Place is a not-for-profit, public benefit corporation that offers "in-patient" counseling from a rural retreat in Dickson County. Its counseling is directed to persons recovering from addiction to alcohol or other substances. The program features regular and direct interaction with a numerous non-medical staff, mostly recovering addicts themselves. There are twenty employees and room for nineteen residents. Discovery Place charges \$3,500 for a thirty day stay that includes meals and lodging, well below the price of traditional in-patient care. These revenues cover about 80% of costs, the remainder offset by donations. Over 700 persons have completed the program since Discovery Place began operations in 1997. It is estimated that perhaps 15% of these persons did not have the ability to pay the required fees, although Discovery Place has no formal financial assistance program.

Discovery Place is unsure whether to characterize its activities as religious, The charitable or educational, but the administrative judge aptly focused on its

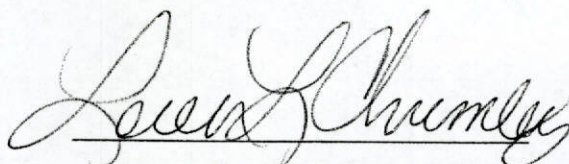
potential as a charitable endeavor, charity as a "gift . . . for the benefit of an indefinite number of persons, either by bringing their hearts under the influence of education or religion, by relieving their bodies from disease, suffering or constraint, by assisting them to establish themselves for life, or by erecting or maintaining public buildings or works or otherwise lessening the burdens of government." The latter phrase is the much-cited definition of charity quoted in *Baptist Hospital v. City of Nashville*, 156 Tenn. 589, 2 S.W. 2d 1059 (1928). The judge concluded Discovery Place did not constitute a charity because it bore greater resemblance to pay-as-you-go group living facilities, generally denied exemption, than to medical treatment facilities generally afforded exemption. *Christian Home for the Aged, Inc. v. Tennessee Assessment Appeals Commission*, 790 S. W. 2d 291 (Tenn. Ct. App. 1990) illustrates the former principle, and *Middle Tennessee Medical Center v. Assessment Appeals Commission*, 1994 WL 32584 (Tenn. App. 1994), the latter.

The Board finds that the administrative judge has correctly applied the current law, and only the legislature can extend the exemption to non-medical residential treatment facilities like this one operated by Discovery Place. Mr. Harshman points out that the Discovery Place program is much less expensive, at \$3,500, than medical treatment facilities, and that unless the residents have a significant financial investment in the program they are less apt to commit the time and effort required to achieve results. Nevertheless, apart from the special status afforded licensed nonprofit medical providers, the charitable exemption must be founded on charity, and the program offered here, for all its achievements and effectiveness, is not charity.

ORDER

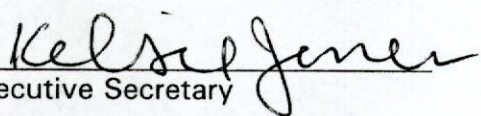
By reason of the foregoing, it is ORDERED, that the initial decision and order of the administrative judge is affirmed. Pursuant to the Uniform Administrative Procedures Act, the parties are advised of their further remedies which may be available by petition filed as follows: a) reconsideration (file within 15 days); b) judicial review (file in Chancery Court within 60 days from the date of the final assessment certificate issued subsequent to this order). Requests for stay of effectiveness will not be accepted.

DATED: August 9, 2006



Presiding member

ATTEST:


Executive Secretary

cc: Mr. Joe Morgan, Discovery Place
Mr. Darren Scroggins, Esq.
Ms. Gail Wren, Assessor
Mr. Lawrence Ramsey, County Attorney